

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of	)	
<b>JAMES A. DUNGY</b> against <b>DTE ELECTRIC</b>	)	Case No. U-18173
<b>COMPANY</b> and <b>DTE GAS COMPANY.</b>	)	
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At the April 13, 2017 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman  
Hon. Norman J. Saari, Commissioner  
Hon. Rachael A. Eubanks, Commissioner

**ORDER**

On August 24, 2016, James A. Dungy filed a complaint against DTE Electric Company (DTE Electric) and DTE Gas Company (DTE Gas), alleging that DTE Electric wrongly demanded that he pay his deceased father's utility bills for the residence on Greeley Street in Detroit, Michigan, before service at that location would be restored and put in Mr. Dungy's name. DTE Electric filed an answer on October 26, 2016, denying complainant's allegations and contending that Mr. Dungy is responsible to pay for the services billed to him by DTE Electric and DTE Gas.

Evidentiary hearings were held on November 28 and December 14, 2016, before Administrative Law Judge Sharon L. Feldman (ALJ). Complainant, DTE Electric, and the Commission Staff (Staff) participated in the hearings.

This dispute involves electric and natural gas utility services provided to the aforementioned private residence that was, until his death, the home of complainant's father, James W. Dungy, and his mother. Because complainant's parents were both in failing health in April 2015, complainant

moved into the home to care for them. He used that location as his address, but due to “a lot of friction going on,” complainant moved out. 1 Tr 15. The elder Mr. Dungy passed away on November 29, 2015. After the death of her husband, complainant’s mother moved out of the Greeley Street residence, and complainant moved in.

At the time of his death, complainant’s father was the customer of record for this residence. DTE Electric and DTE Gas were not made aware of complainant’s father’s death, and the utility services remained in the elder Mr. Dungy’s name until they were disconnected due to non-payment on April 22, 2016. It was at this point that complainant’s efforts to have the utility services switched into his name began. However, complainant, DTE Electric, and DTE Gas soon became embroiled in a dispute over the extent to which the companies could require complainant to pay for the utility service at the residence, and whether the companies could require complainant to pay a deposit due to a 10-year-old arrearage that was accrued by complainant at a different location.

Complainant’s position was supported by his testimony at 1 Tr 7-18 and 2 Tr 6-64 of the hearing transcript, and Exhibits C-1 and C-2. DTE Electric’s and DTE Gas’ positions were supported by Robin Jennings, an Executive Customer Consultant for the companies, at 2 Tr 27-45, and Pashko Memcevic, an Executive Customer Account Consultant for the companies, at 2 Tr 46- 59. The companies also sponsored Exhibit R-1, which were some billing records for the residence.

After considering the evidence presented by the witnesses, the ALJ issued a Proposal for Decision (PFD) on February 8, 2017. In the PFD, the ALJ concluded:

For the reasons explained above, this PFD recommends that the Commission make the following findings and adopt the following conclusions:

1. Find that Mr. Dungy was living in his father's house since approximately November 29, 2015.
2. Find that DTE did not bill Mr. Dungy for utility service provided to his father, but limited charges to service provided after November 29, 2015, the date of Mr. Dungy's father's death.
3. Find that Mr. Dungy agreed to pay for utility service provided to the residence since November 29, 2015.
4. Find that DTE did offer to enter into a payment plan with Mr. Dungy, and did not expect him to pay the entire amount of the initial bill immediately.
5. Conclude that DTE did not violate R 460.120 or R 460.137.
6. Conclude that DTE did not identify authority within the Commission rules for assessing a \$199 deposit to Mr. Dungy, because the provisions DTE relied on pertaining to prior debts do not apply to debts more than 6 years old.

Based on these findings and conclusions, this PFD recommends that the Commission dismiss the portion of Mr. Dungy's complaint alleging violations of R 460.120 and R 460.137. In addition, this PFD recommends that the Commission direct DTE to identify its authority for assessing a deposit other than Rule 9(1)(a) or Rule 10(1)(a), or refund the deposit to Mr. Dungy.

PFD, p. 16.

The Commission finds that it is a testament to the reasonableness of the ALJ's determinations that neither complainant nor the companies elected to file exceptions to the PFD.

### Discussion

In residential complaint cases, the Commission allows some leeway in the formality and technical requirements of the hearing process to ensure complainants are provided with a fair opportunity to present their side of the case. Regardless of the more relaxed process, the complainant still bears the burden of proving his or her position. Mr. Dungy testified on his own behalf and provided his complaint and billing statements as his evidence. The companies, however, provided billing records and records of employees' interactions with Mr. Dungy, along

with the testimony of two witnesses, in support of their position. While the Commission is sympathetic in general to complaints brought before the Commission, decisions such as these must be made on the evidentiary record. Based on its review of the record, the Commission adopts the findings and conclusions of the ALJ.

The Commission finds that Mr. Dungy was living in his father's house after his father's death, using the utility services at that residence, and is responsible for the utility charges assessed after the date of his father's death. The Commission also finds that the assessment of a deposit based on Mr. Dungy's prior uncollectible debt was improper. The companies' witness testified that the prior debt was the basis for assessing a deposit in this case. 2 Tr 39. The companies could have filed an exception to the ALJ's recommendation and provided authority for assessing the deposit. However, they did not do so. Therefore, the Commission finds that the deposit assessed by the companies in this case should be credited to Mr. Dungy's account.

THEREFORE, IT IS ORDERED that the portion of the complaint of James A. Dungy against DTE Electric Company and DTE Gas Company alleging violations of Mich Admin Code, R 460.120 and R 460.137 is dismissed with prejudice, and DTE Electric Company and DTE Gas Company are ordered to credit James A. Dungy's account for the amount of the deposit assessed based on his prior 10-year-old debt.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order under MCL 462.26. To notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov) and to the Michigan Department of the Attorney General - Public Service Division at [pungpl@michigan.gov](mailto:pungpl@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Sally A. Talberg, Chairman

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Norman J. Saari, Commissioner

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Rachael A. Eubanks, Commissioner

By its action of April 13, 2017.

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Kavita Kale, Executive Secretary